

**The Local Government Ombudsman's
Annual Review
Kent County Council
for the year ended
31 March 2010**

Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Kent County Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Kent County Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

Last year our Advice Team handled 161 enquiries and complaints about your Council. Of these 14 related to complaints which we considered were premature, and we referred them to your Council for investigation. We gave advice to 28 other enquirers on a variety of matters, including my jurisdiction. Our Advice team passed 119 complaints to the investigative team. The issue which prompted the largest group of enquiries and the most complaints was education. Of 116 complaints forwarded to the investigative team 86 concerned education.

Complaint outcomes

Last year I made decisions on 120 complaints against your Council. There were 52 complaints in which I found no, or insufficient, evidence of fault by the Council to warrant further investigation. I used my discretion not to pursue investigations into 21 complaints, for example where the injustice to the complainant was not significant enough to warrant a remedy or where the remedy which the Council had provided was adequate. I found that 17 complaints were outside my jurisdiction.

Reports

When we complete an investigation, we generally issue a report. I issued one report. The complaint concerned the Council's actions in respect of the complainant's two children both of whom have learning difficulties. I found that the Council failed in its statutory duty to make direct payments available for overnight respite care. The Council also failed to carry out regular reviews of children in need. There was a delay in assessing the needs of the family which, coupled with the failure to make direct payments available for overnight respite care, meant that one of her children missed one night a week of overnight respite care for eight months, and seven hours of daytime respite care a week for three months. To remedy matters the Council agreed to pay the complainant the value of the direct payments she missed (in the region of £12,000). It apologised and paid a further £500 for the time and trouble she had been put to in pursuing her complaint. The Council has also taken action to ensure that regular reviews are carried out for children in need.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2009/10, [26.9%] of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority which were within my

jurisdiction 29 (28%) were local settlements. These settlements resulted in the Council making payments totalling just under £9,000 (£5,000 of which was in respect of one complaint).

Of the 29 local settlements, 25 were education complaints. The largest group of local settlements, 21, concerned applications and appeals for admission to schools where the Council is the admissions authority. The faults included wrong or insufficient information being presented to appeal panels, inappropriate questioning by panellists and poor record keeping. In 14 cases the Council agreed to settle the complaint by the offer of a fresh appeal hearing. In five cases the Council offered a place at the preferred school. I found fault in four other admission cases but used my discretion not to pursue these as I was not satisfied that any injustice had been caused.

During the year, four of my staff met officers from the Council's corporate complaints section and its education department. They discussed identified problems in the way the Council arranges appeals (both for its own schools and in the appeal service that it provides for voluntary aided and foundation schools). They also discussed some delays in responding to our enquiries and resistance to settling complaints. The meeting was useful. As a result, two of my staff took part in three training sessions the Council organised for panellists, presenting officers and appeal clerks for all types of schools.

I settled four other education complaints. Two concerned a failure by the Council to provide education while a child was out of school. The Council paid a total of £1,450 compensation. The second concerned the Council's failure to state that it would not pay for transport to a school named in a statement of special educational needs. The Council agreed to provide transport following my involvement. The last concerned a number of faults in the way the Council dealt with a child's special educational needs. As a result he lost half a year's education which had an impact on him and his mother, who was unable to work while she cared for him at home. The Council paid £5,000 compensation.

Of the remaining four settlements one concerned errors by the Council in the way it arranged a meeting to discuss care arrangements for the complainant's daughter, for which the Council paid £250 compensation. A second concerned some modest fault in the way the Council considered a consumer affairs complaint, for which it apologised. Two concerned highways matters. In the first of these the Council had not implemented a previous agreement to adopt a highway. The Council clarified the timescale for carrying out this work. In the second the Council failed to give advance notice of a road closure. The Council agreed to pay £1,000 compensation for the impact on the complainant's business.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries was 31.5 days. This is an improvement on last year's figure but still outside my target time of 28 days. As in previous years the Council's responses do not always provide full answers. There is sometimes a reluctance to acknowledge fault and to agree to local settlements. These issues were raised at the meeting I have referred to above. I hope that the Council can continue to reduce the time taken to reply and respond positively to my proposed settlements.

Training in complaint handling

I would like to take this opportunity to remind the Council that part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

During the year I ran seminars for officers dealing with adult social care complaints. I am pleased that two of your staff attended one of these events. I hope they found it useful.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your authority's services.

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June 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in **Barking and Dagenham, Cambridgeshire, Medway and Sefton**. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your authority. We will keep you up to date through LGO Link as each development progresses, but if there is anything you wish to discuss in the meantime please let me know.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

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June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Premature complaints: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the LGO as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the LGO's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the LGO's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.–

Table 4. Average local authority response times 2009/10

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	3	7	1	0	1	0	3	0	15
Advice given	3	0	14	1	0	2	2	6	28
Forwarded to investigative team (resubmitted prematures)	0	1	0	0	0	0	2	0	3
Forwarded to investigative team (new)	7	12	86	0	0	2	6	2	115
Total	13	20	101	1	1	4	13	8	161

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	1	29	0	0	52	22	16	120

Average local authority resp times 01/04/2009 to 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	76	31.5
2008 / 2009	69	38.1
2007 / 2008	78	29.4

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20